

Senate Bill 391

By: Senators Chapman of the 3rd, Heath of the 31st, Hill of the 32nd, Reed of the 35th,
Staton of the 18th and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 61 of Title 36 of the Official Code of Georgia Annotated, the "Urban Redevelopment Law," so as to provide for a moratorium upon the exercise of the power of eminent domain for purposes of urban development; to provide for exceptions; to provide a statement of legislative findings and a statement of intent; to provide for conflicts and construction; to provide for severability; to provide for applicability; to provide for automatic repeal; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

The General Assembly makes the following findings:

(1) The protection of homes, small businesses, and other private property rights against government seizures and other unreasonable government interference is a fundamental principle and core commitment of our nation's founders;

(2) It is the desire of the General Assembly and the Governor of this state to prevent municipalities, local governments, and all other entities with the power of eminent domain from infringing on the private property rights of landowners; and

(3) It is the intention of the General Assembly and the Governor of this state to enact and sign into law legislation during the 2006 legislative session to restrict the application of the United States Supreme Court's decision in *Kelo v. City of New London, Connecticut* to private property owners in Georgia.

SECTION 2.

Chapter 61 of Title 36 of the Official Code of Georgia Annotated, the "Urban Redevelopment Law," is amended by inserting at the end thereof a new Code section to read as follows:

1 "36-61-20.

2 (a) There is imposed a moratorium upon all boards, commissions, departments, divisions,
3 offices, bodies, and other units of a municipality or county, agencies or urban
4 redevelopment agencies, housing authorities, downtown development authorities, and local
5 government bodies from exercising the power of eminent domain provided for in this
6 chapter; provided, however, that the provisions of this Code section shall not apply to
7 projects involving the erection of government buildings or structures, the creation,
8 expansion, or maintenance of government owned utilities or federally mandated projects,
9 or the creation of public roads.

10 (b) In the event of a conflict between this Code section and an existing statute or provision,
11 this Code section shall control with the exception of those powers necessary for
12 governments specifically exempted in subsection (a) of this Code section. This Code
13 section shall be strictly construed to protect the private property rights of residents and
14 businesses over the interests of local governments.

15 (c) This Code section shall apply to all proposed, pending, and future condemnation
16 actions brought pursuant to this chapter and shall remain in effect for a period of 120 days
17 from the date this Code section becomes effective and upon the expiration of such 120 days
18 this Code section shall be automatically repealed.

19 (d) In the event any part of this Code section is determined to be unconstitutional, all other
20 parts shall remain in effect."

21 **SECTION 3.**

22 This Act shall become effective upon its approval by the Governor or upon its becoming law
23 without such approval.

24 **SECTION 4.**

25 All laws and parts of laws in conflict with this Act are repealed.